

## **IC 22-13-2**

Chapter 2. Rules; Variances; Review of State and Local Rules, Ordinances, and Orders; Approval of Cooperative Agreements

### **IC 22-13-2-1**

**State agencies and political subdivisions to exercise statutory powers**

Sec. 1. Except as provided in this article, state agencies and political subdivisions may exercise their statutory powers to regulate buildings, structures, and other property.

*As added by P.L.245-1987, SEC.2.*

### **IC 22-13-2-2**

**Statewide code of fire safety and building laws; adoption of national codes**

Sec. 2. (a) The commission shall adopt rules under IC 4-22-2 and IC 22-13-2.5 to adopt a statewide code of fire safety laws and building laws.

(b) Before December 1, 2003, the commission shall adopt the most recent edition, including addenda, of the following national codes by rules under IC 4-22-2 and IC 22-13-2.5:

- (1) ANSI A10.4 (Safety Requirements for Personnel Hoists).
- (2) ASME A17.1 (Safety Code for Elevators and Escalators, an American National Standard).
- (3) ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts, American National Standard).
- (4) ASME QEI-1 (Standard for the Qualification of Elevator Inspectors, an American National Standard).
- (5) The American Society of Civil Engineers (ASCE) Automated People Mover Standard 21.
- (6) ANSI A90.1 Safety Code for Manlifts.

(c) Before July 1, 2006, the commission shall adopt the most recent edition, including addenda, of ASME A17.3 (Safety Code for Existing Elevators and Escalators, an American National Standard) by rules under IC 4-22-2 and IC 22-13-2.5.

(d) The commission shall adopt the subsequent edition of each national code, including addenda, to be adopted as provided under subsections (b) and (c) within eighteen (18) months after the effective date of the subsequent edition.

(e) The commission may amend the national codes as a condition of the adoption under subsections (b), (c), and (d).

(f) To the extent that the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, apply to tents or canopies in which cooking does not occur, the commission shall suspend enforcement of the following sections of the International Fire Code, 2000 edition, until the office of the state fire marshal recommends amendments to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations:

- (1) Section 2406.1 (675 IAC 22-2.3-233).

(2) Section 2406.2.

(3) Section 2406.3.

(g) To the extent that section 2403.2 of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, applies to a tent or canopy in which there is an open flame, the commission shall suspend enforcement of section 2403.2 until the office of the state fire marshal recommends amendments to section 2403.2 to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations and amending section 2403.2.

(h) The office of the state fire marshal shall recommend amendments to the commission to the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

(1) Section 2403.2.

(2) Section 2406.1 (675 IAC 22-2.3-233).

(3) Section 2406.2.

(4) Section 2406.3.

(i) After receiving and considering recommendations from the office of the state fire marshal under subsection (h), and using the procedure set forth in IC 4-22-2-38, the commission shall amend the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

(1) Section 2403.2.

(2) Section 2406.1 (675 IAC 22-2.3-233).

(3) Section 2406.2.

(4) Section 2406.3.

*As added by P.L.245-1987, SEC.2. Amended by P.L.167-1997, SEC.3; P.L.119-2002, SEC.7; P.L.44-2005, SEC.1.*

### **IC 22-13-2-3**

#### **Precedence of rules adopted by commission; reference to rules; ordinances**

Sec. 3. (a) Except to the extent provided in subsection (c), the rules adopted under section 2 of this chapter take precedence over:

(1) any rule adopted by a state agency that conflicts with the commission's fire safety rules or building rules; and

(2) any ordinance or other regulation adopted by a political subdivision that covers the same subject matter as the commission's fire safety rules or building rules.

(b) State agencies and political subdivisions may incorporate the rules adopted by the commission by reference into a rule, ordinance, or other regulation. Notwithstanding IC 4-22-9-6, a reference to the rules adopted by the commission, by citation to the Indiana Administrative Code (IAC), shall be construed to include all amendments as of the date that the reference is written and any later amendments to that provision, unless accompanied by a reference to a specific edition or supplement to the Indiana Administrative Code.

(c) A city, town, or county may adopt an ordinance that includes more stringent or detailed requirements that do not conflict with the

commission's rules, but the ordinance is subject to approval under section 5 of this chapter.

*As added by P.L.245-1987, SEC.2.*

#### **IC 22-13-2-4**

##### **Duplication, conflict, or overlapping of responsibility between rules**

Sec. 4. If the commission finds duplication, conflict, or overlapping of responsibility between:

(1) this article, IC 22-12, IC 22-14, IC 22-15, a fire safety rule, or a building rule; and

(2) the rules adopted by another state agency;

the commission shall notify the state agency, and the state agency shall revise its rules to eliminate the duplication, conflict, or overlap.

*As added by P.L.245-1987, SEC.2.*

#### **IC 22-13-2-5**

##### **Ordinances or regulations of political subdivisions; review; approval of commission required**

Sec. 5. (a) The commission shall carry out a program to review the fire safety laws and the building laws adopted in the ordinances and other regulations of political subdivisions.

(b) An ordinance or other regulation adopted by a political subdivision that qualifies as a fire safety law or a building law is not effective until it is approved by the commission. However, an ordinance that:

(1) is adopted by a city, town, or county; and

(2) governs the installations, repair, and maintenance of smoke detectors in residential structures that are not required to have smoke detectors under the rules of the commission;

is effective without approval by the commission.

*As added by P.L.245-1987, SEC.2.*

#### **IC 22-13-2-6**

##### **Ordinances or regulations of political subdivisions; application to industrialized building system or mobile structure**

Sec. 6. An ordinance or other regulation adopted by a political subdivision that governs the construction of a building or other structure does not apply to an industrialized building system or mobile structure that is certified under IC 22-15-4.

*As added by P.L.245-1987, SEC.2.*

#### **IC 22-13-2-7**

##### **Review of variances and orders of state agencies or political subdivisions**

Sec. 7. (a) The commission may review and modify or reverse any variance or other order that:

(1) is issued by a state agency or political subdivision; and

(2) covers a subject governed by this article, IC 22-12, IC 22-14, IC 22-15, a fire safety rule, or a building rule.

(b) The commission shall review variances granted by a political

subdivision to the fire safety laws and building laws adopted in its ordinances. The variance is not effective until it is approved by the commission.

(c) The commission shall review orders under this section that:

(1) are issued by a political subdivision; and

(2) concern a Class 2 structure;

if a person aggrieved by the order petitions for review under IC 4-21.5-3-7 within thirty (30) days after the political subdivision has issued the order.

(d) A copy of the petition under subsection (c) shall be delivered to the political subdivision issuing the order.

(e) Review of an order under this section does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

*As added by P.L.245-1987, SEC.2.*

### **IC 22-13-2-8**

#### **Equipment laws**

Sec. 8. (a) The commission shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated lifting devices.

(b) Except as provided in subsection (c), subject to the approval of the commission, the rules board shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated boilers and pressure vessels.

(c) Subject to the approval of the commission, the rules board may adopt emergency rules under IC 4-22-2-37.1 only to adopt by reference all or part of the following national boiler and pressure vessel codes:

(1) The American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

(2) The National Board of Boiler and Pressure Vessel Inspectors Inspection Code.

(3) The American Petroleum Institute 510 Pressure Vessel Inspection Code.

(4) Any subsequent editions of the codes listed in subdivisions (1) through (3).

(d) An emergency rule adopted under subsection (c) expires on the earlier of the following dates:

(1) Not more than two (2) years after the emergency rule is accepted for filing with the secretary of state.

(2) The date a permanent rule is adopted under IC 4-22-2.

(e) Subject to the approval of the commission, the regulated amusement device safety board established under IC 22-12-4.5 shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated amusement devices.

*As added by P.L.245-1987, SEC.2. Amended by P.L.166-1997, SEC.4; P.L.141-2003, SEC.9.*

### **IC 22-13-2-9**

#### **Power of political subdivisions to regulate; limitation**

Sec. 9. Except as provided in section 10 of this chapter, political subdivisions do not have the power to regulate regulated:

- (1) amusement devices;
- (2) boilers;
- (3) lifting devices; and
- (4) pressure vessels.

*As added by P.L.245-1987, SEC.2. Amended by P.L.119-2002, SEC.8.*

#### **IC 22-13-2-10**

##### **Lifting devices; regulation by county, city, or town; permits; inspections**

Sec. 10. (a) A county, city, or town may regulate regulated lifting devices if the unit's regulatory program is approved by the commission.

(b) A unit must submit its ordinances and other regulations that regulate lifting devices to the commission for approval. The ordinance or other regulation is not effective until it is approved by the commission. If any of these ordinances or regulations conflict with the commission's rules, the commission's rules supersede the local ordinance or other regulation.

(c) A unit may issue permits only to applicants who qualify under IC 22-15-5. However, the unit may specify a lesser fee than that set under IC 22-12-6-6(a)(7).

(d) A unit must inspect regulated lifting devices with inspectors who possess the qualifications necessary to be employed by the division of fire and building safety of the department of homeland security as a regulated lifting device inspector.

*As added by P.L.245-1987, SEC.2. Amended by P.L.119-2002, SEC.9; P.L.22-2005, SEC.36.*

#### **IC 22-13-2-11**

##### **Variances**

Sec. 11. (a) The commission, the rules board, or the regulated amusement device safety board established by IC 22-12-4.5-2 may grant a variance to a rule that it has adopted.

(b) To qualify for a variance, an applicant must pay the fee set under IC 22-12-6-6 and submit facts demonstrating that:

- (1) compliance with the rule will impose an undue hardship upon the applicant or prevent the preservation of an architecturally significant or historically significant part of a building or other structure; and
- (2) either:
  - (A) noncompliance with the rule; or
  - (B) compliance with an alternative requirement approved by the body adopting the rule;will not be adverse to the public health, safety, or welfare.

(c) A variance granted under this section is conditioned upon compliance with an alternative standard approved under subsection (b)(2)(B).

(d) A variance granted under this section takes precedence over conflicting rules adopted by a state agency and conflicting ordinances and other regulations adopted by a political subdivision. *As added by P.L.245-1987, SEC.2. Amended by P.L.141-2003, SEC.10.*

#### **IC 22-13-2-12**

##### **Agreements with federal government, other states, or foreign countries; approval of attorney general**

Sec. 12. (a) This section applies if the commission is authorized by statute to enter into agreements with the federal government, another state, or foreign country.

(b) An agreement under this section must be submitted to the attorney general for approval. The attorney general shall approve the agreement unless the attorney general finds that it does not comply with the statutes. If the attorney general disapproves the agreement, the attorney general shall give the commission a detailed statement indicating the basis for the disapproval. If the attorney general fails to approve or disapprove the agreement within sixty (60) days after it is submitted, it is considered approved.

*As added by P.L.245-1987, SEC.2.*

#### **IC 22-13-2-13**

##### **Exercise of power to adopt rules by commission**

Sec. 13. (a) The commission may adopt rules under IC 4-22-2 to implement this article, IC 22-12, IC 22-14, and IC 22-15.

(b) Any power of the state fire marshal or the state building commissioner to adopt rules shall be exercised by the commission.

*As added by P.L.245-1987, SEC.2.*

#### **IC 22-13-2-14**

##### **Studies and consultation**

Sec. 14. The commission may engage in studies and consult with any person to implement this article, IC 22-12, IC 22-14, and IC 22-15.

*As added by P.L.245-1987, SEC.2.*